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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,942	02/11/2004	Dennis L. Broderick	15463.1.3	4261

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EXAMINER

BASINGER, SHERMAN D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,942

Applicant(s)

BRODERICK ET AL.

Examiner

Sherman D. Basinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to because the lines, numbers and letters are not uniformly thick and well defined (poor line quality).
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "62" has been used to designate both the net supports (paragraph [0056]) and the climbing wall (paragraph [0058]).
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the safety net of claim 4, the means for adjusting the surface such that the surface can be configured at various angles of claim 13, and the upper attachment bracket of claim 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

4. INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

Specification

5. Paragraph [0001] should be amended to state that parent 10/452397 is now abandoned.
6. In line 1 of page 16, "38" should be -46-.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13-18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable

one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has failed to describe in detail such it can be made and used the means for adjusting the surface of the climbing wall so that it can be configured at various angles. What structure is used to adjust the angle of the climbing wall shown in figure 7. This structure should be described in detail and shown in the drawings such that one having ordinary skill in the art can make and use it.

Further, applicant has failed to describe in detail the means for retracting the slide comprising an upper attachment bracket, the upper attachment bracket attaching to an upper portion of the slide and detachably attaching to the means for attaching the slide to the float of claim 18. Lower attachment bracket 50 is noted. However, applicant has not described in detail the upper attachment.

In amending the disclosure new matter should not be entered.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4, 7, 8 and 9-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4 "the trampoline" has no clear antecedent.

In claim 7 "the ledge" has no clear antecedent.

In claim 9 "said floatation means" of line 5 has no clear antecedent.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, Sr.

The float is 10. The float top surface is formed by deck 22. The ledge is clearly shown in figure 6. The ledge is formed by the end of deck 22 and the end plate which is bent along lines 19. Pipe members 31 and 32 form the frame mounted on the ledge of the float. The recreational implement is deck 34.

For claim 5, in figure 2 of Smith, Sr. first and second rigid floats 10 are shown as being longitudinally aligned. The first and second means of claim 5 are the supports 43. The attachment means for attaching the first float to the second float is deck 11.

7. Claims 13-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Gordon.

The means to adjust the angle of the climbing surface 21 are straps or belts 30. The float is anyone of 65. The frame is 66.

Note protrusions 61 and recesses 60.

Note column 4, last two lines with regard to using the climbing wall in a body of water.

8. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by French 2702965A.

The means for attaching the slide to the float is frame 9. The upper attachment bracket is upper pivoting arm 11 and the lower attachment bracket is the lower pivoting arm 11.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Sr. and Gruhn et al.

In Smith, Sr. the recreational implement is 12, the rigid framework is 43, and the means to support the rigid framework are floats 10. The ledges in floats 10 are formed at the longitudinal ends of decks 22 where decks 22 are fastened by screws 23 to the end plate having bends 19. The ledge are not molded. However, Gruhn et al discloses molded floats. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to mold each float 10 of Smith, Sr. Motivation to do so is that molding the floats of Smith, Sr. is a more simple and economic way to make them.

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As shown in figure 6 the ledge defines an upper portion and a lower portion of the float 10, which is the means for supporting.

With regard to claim 12, the recreational implement would be deck 34 of figure 3. The rigid framework would be pipes 31 and 32. At least pipe 32 of the rigid framework would reside in the ledge formed by the end of deck 22 and the plate having bends 19.

Allowable Subject Matter

11. Claims 2, 3, and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4, 7, 8 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hussey is cited to show the floating sliding board. Maxwell is cited to show the floating trampoline. Sass also shows a floating trampoline. Donavon is cited to show the floating deck. Mears et al is cited to show the floatable park. Broderick et al 049 and Broderick et al 369 are publications of the parent applications. EPO 0 786 270 is cited to show the floating diving board device with trampolines 8 and 9.

13. This is a continuation of applicant's earlier Application No. 10/452397. All claims are drawn to the same invention claimed in the earlier application and could have been

finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
Art Unit 3617
7/6/04

sdb
7/6/04